

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PAVON EMILIO,	)	4:13CV3073
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
NEBRASKA DEPARTMENT OF	)	
CORRECTIONAL SERVICES, and	)	
FRED BRITTEN, Warden,	)	
	)	
Defendants.	)	

This matter is before the court for case management. The following motions are currently pending:

- Plaintiff's Motion to Stay Case Progression (Filing No. [72](#)) and Motion for Order Compelling Discovery (Filing No. [73](#)) filed on March 2, 2015.
- Defendant's Motion to File Under Seal (Filing No. [74](#)) and Motion for Summary Judgment (Filing No. [77](#)) filed on March 5, 2015. Along with these motions, Defendant filed a provisionally-sealed Brief (Filing No. [75](#)) in support of the Motion for Summary Judgment and twelve provisionally-sealed exhibits (Filing No. [76](#)). Defendant also filed an unsealed Brief (Filing No. [78](#)) in support of the Motion for Summary Judgment and 17 unsealed exhibits (Filing No. [79](#)). On March 27, 2015, Plaintiff filed a Brief (Filing No. [81](#)) and an Exhibit Index (Filing No. [82](#)) in response to the unsealed portions of Defendant's Motion for Summary Judgment.

Plaintiff filed his Motion to Stay Case Progression (Filing No. [72](#)) and Motion for Order Compelling Discovery (Filing No. [73](#)) prior to Defendant's filing of a Motion for Summary Judgment. Because Plaintiff has now filed a response to the Motion for Summary Judgment, his Motion to Stay Case Progression (Filing No. [72](#)) and Motion for Order Compelling Discovery (Filing No. [73](#)) will be denied as moot.

Separately, at this time, the court will not consider the provisionally-sealed Brief (Filing No. [75](#)) or provisionally-sealed exhibits (Filing No. [76](#)) in deciding Defendant's Motion for Summary Judgment. Those documents have not been served on Plaintiff and he has been given no opportunity to review them in response to Defendant's motion. In other words, the court will only consider the unsealed arguments and evidence submitted by Defendant in ruling on the Motion for Summary Judgment.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Stay Case Progression (Filing No. [72](#)) and Motion for Order Compelling Discovery (Filing No. [73](#)) are denied as moot.
2. Defendant's Motion to File Under Seal (Filing No. [74](#)) is held in abeyance pending the court's decision on the unsealed portions of the Motion for Summary Judgment.

DATED this 30<sup>th</sup> day of March, 2015.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge

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